

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK WHITE,

Plaintiff,

v.

Case No. 13-15073

ROSLYN JINDAL, et al.,

HONORABLE AVERN COHN

Defendants.

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**ORDER**  
**ADOPTING REPORT AND RECOMMENDATION (Doc. 98)**  
**AND**  
**DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTION FOR SUMMARY**  
**JUDGMENT (Doc. 82)**  
**AND**  
**DENYING PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS (Doc. 94)**

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is currently proceeding pro se<sup>1</sup> and the matter has been referred to a magistrate judge for all pretrial proceedings. (Doc. 12). Following motion practice by plaintiff and defendants, plaintiff's claims are against persons with the Michigan Department of Corrections (MDOC) claiming a violation of his Eighth Amendment rights. See Doc. 73.

Plaintiff filed a motion for summary judgment (Doc. 82) and a motion for judgment on the pleadings (Doc. 94), essentially seeking a judgment in his favor that defendants have violated hi rights. Defendants filed a response to both, contending that

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<sup>1</sup>Plaintiff's motion for the appointment of counsel was recently granted. See Doc. 97. However, counsel has not yet been appointed for plaintiff.

summary judgment is premature as no discovery has taken place and that plaintiff's motion for judgment on the pleadings is otherwise improper. (Docs. 89, 95).

On February 7, 2015, the magistrate judge issued a report and recommendation (MJRR), recommending that plaintiff's motion for summary judgment be denied without prejudice and plaintiff's motion for judgment on the pleadings be denied. (Doc. 98).

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). The Court has reviewed the MJRR and agrees with the magistrate judge's recommendations.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for summary judgment is DENIED WITHOUT PREJUDICE and plaintiff's motion for judgment on the pleadings is DENIED.

SO ORDERED.

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: February 27, 2015

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I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 27, 2015, by electronic and/or ordinary mail.

S/Sakne Chami  
Case Manager, (313) 234-5160